IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3937 OF 2004

Mahesh Shantilal Modi. . .. Petitioner.

vs.

Priti Mahesh Mode. .. Respondent.

Mr. V.A. Thorat, Sr. Counsel with V.S. Kapse

i/by Mahesh Shah & Co. for petitioner.

Mr. K.K. Malpathak for respondent.

CORAM : S.U. KAMDAR, J.

DATE : 28th November, 2005.

P.C.:

. The present petition is filed challenging the order dated 5.1.2004 in Petition No. A-865 of 2002 before the Family Court at Bandra. The order which is challenged is rejecting an application for framing an issue before the trial Court. It was the case of the petitioner that the trial Court should have framed an issue whether the earlier marriage is valid and subsisting or not. In my opinion, the order passed by the Family Court is purely procedural and in the course of the trial. The writ jurisdiction is not required to be invoked for

interfering with each and every procedural orders which are passed by the trial Court in the course of trial. If the petitioner is right then in that event the petitioner is permitted to challenge the final decree which will be passed by the Family Court. In view of the aforesaid view I am not going into the issue whether the trial Court is justified or not in not framing an issue in the present case and that issue is left open to be determined in appropriate proceeding as and when the same arises. In the aforesaid view, the writ petition is dismissed. There shall be no order as to costs.